HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.14681 OF 2006

Between:

P.Sujatha and others
. . .Petitioners

AND

The Kukatpally Municipality
. . .Respondent

Counsel for the Petitioners : Shri P.Veera Reddy

Counsel for the Respondent : Shri P.Radhakrishna

Dated: 14th September, 2006

: ORDER :

PER G.S.SINGHVI, CJ

In this petition, the petitioners have prayed for quashing notice dated 11.07.2006 issued by Commissioner, Kukatpally Municipality, Ranga Reddy District (respondent herein) requiring the petitioners to remove unauthorized construction raised in premises No.2-22-280, Saroja complex at Bhagyanagar colony, Kukatpally, Ranga Reddy district, in respect of godown portions Nos.1 to 10.

In the affidavit filed by him, petitioner No.3 – T.V.Srinivas has averred that the petitioners had purchased the godown portions bearing Nos.1 to 10 in the cellar of the building constructed on Plot Nos.148 to 151, Survey No.159 of Kukatpally village. He has further averred that building was constructed after obtaining the sanctioned plan, but in the guise of implementing order dated 25-02-2006 passed in Writ Appeal No.2130 of 2005, the respondent is seeking to demolish the building without giving them action oriented notice and opportunity of hearing.

We have heard learned counsel for the parties and perused the record.

Since the respondent has not controverted the assertion of the petitioners that the impugned notice has been issued without giving them action oriented notice and opportunity of hearing, we feel that ends of justice would be met by giving liberty to the petitioners to appear before the Commissioner and produce all the documents to show that they and the owner have not made any unauthorized construction with a further direction to the Commissioner to decide the same within a specified time frame.

Hence, the writ petition is disposed of with the following directions:

1) Within seven days from today, the petitioners shall appear before the Commissioner and produce all documents to show that they and the owner have not raised any construction in violation of the sanctioned plan. They shall also be free to raise all legally permissible objections against notice dated 11.07.2006.

2) Within next two weeks, the Commissioner shall consider the objections and documents produced by the petitioners, hear them and pass appropriate order.

3) If the Commissioner comes to the conclusion that the petitioners have made unauthorized construction or any deviation has been made from the sanctioned plan, then he may order demolition of such illegal or unauthorized construction. However, such order shall not be given effect for a period of seven days within which the petitioners shall be free to avail appropriate legal remedy including the one by way of filing fresh petition.

Since the notice impugned in the writ petition was issued in furtherance of the direction given by the Division Bench, we direct that in future, the writ petitions filed in the matter of removal of unauthorized structure or illegal construction shall be listed before the Division Bench as per roster.

We also deem it proper to observe that before issuing notice for demolition, the concerned authorities of the municipality should comply with the rules of natural justice. This would go a long way to obviate unnecessary litigation.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 14.09.2006

Note: The Court Officer is directed to give attested copies of this order to the learned counsel for the parties.

Kvni/bsc